

U.S. Serial No. 09/821,122
Attorney Docket No. US010134
Page 12 of 14

R E M A R K S

Claims 1, 3-5, 7-9, 11-13, 15-17 and 19-20 stands rejected under 35 USC 102(b) as being anticipated by Tranchard et al. Claims 2, 6, 10, 14 and 18 stands rejected under 35 USC 102(a) as being unpatentable over Tranchard et al. in view Sohraby.

In response, it is respectfully submitted that the claims recite features not anticipated by Tranchard et al. In particular, such features include "prioritizing and scheduling insertion of content to be inserted within said transport stream based upon said estimate of future available bandwidth and characteristics of said insertion content", as recited in Claims 1, 5, 9 and 13. Further, Claim 17 now recites "a ratio of the first portion to the second portion is determined by characteristics of insertion content and an estimate of available bandwidth".

In addressing these features in the above rejection, column 8, lines 29-42, of Tranchard et al. is being relied on. However, in this portion, Tranchard et al. only discloses:

U.S. Serial No. 09/821,122
Attorney Docket No. US010134
Page 13 of 14

"The PID counter 21, programmable by the microprocessor 15 may be used to verify the presence or absence of packets with a predetermined PID value in the transport packet stream as well as to count the number of packets bearing this PID value that are present in a given block of transport packets. In particular, the PID counter 21 may be used to count the number of null packets present in the transport stream ...so as to evaluate the bit rate available for insertion of further-packets (See Below)."

Based on the above disclosure, it is evident that the insertion of further packets in Tranchard et al. is only based on the bit rate available and makes no mention of using characteristics of the insertion content, as required by the claims. Therefore, it is respectfully submitted that Tranchard et al. does not anticipate "prioritizing and scheduling insertion of content to be inserted within said transport stream based upon said estimate of future available bandwidth and characteristics of said insertion content" and "a ratio of the first portion to the second portion is determined by characteristics of insertion content and an estimate of available bandwidth".


In view of the above, it is respectfully submitted that the invention of claims 1-20 is neither anticipated nor made obvious by Tranchard et al. alone or in combination with Sohraby. Therefore, it is respectfully requested that these rejections be

U.S. Serial No. 09/821,122
Attorney Docket No. US010134
Page 14 of 14

reconsidered and withdrawn so that the present application may proceed to issue.

The Commissioner is hereby authorized to credit any overpayment or charge any fee (except the issue fee) to Account No. 14-1270.

Respectfully submitted,

By 
Russell Gross, Reg. 40,007
Attorney
(914) 333-9631